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Technology Center 2100

In re Application of:
Nobumitsu TAKAOKA et al
Application No. 10/618,433
Filed: July 10, 2003
For: COMPUTER MANAGEMENT SYSTEM
AND MANAGEMENT PROGRAM

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition, originally filed on 23 August 2004 (resubmitted on 07 February 2005 and further resubmitted on 06 October 2005) under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR § 1.17(h);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of 23 August 2004 fails to meet requirement (E) as set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). In addition, the discussion does not sufficiently distinguish the patentable feature in the claimed subject matter relative to the prior art references. Applicant must bring out the specific feature that defines the claimed invention as set forth in the independent claims in order to properly discuss the same with relevant details from each of the references. Section (E) explicitly mandates that the "discussion points out, with the particularity required by 37 CFE 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Applicant's petition, however, does not distinctly identify the claim component that distinguishes the claimed invention from the reference prior art.

Accordingly, the petition is **DISMISSED**. Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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